

REMARKS

Upon entry of the proposed amendment, Claims 1-3 will be amended, Claims 4 and 6 cancelled, and Claims 7-10 will be added. Independent Claims 1 and 7, with Claims 2, 3, 5 and 8-10 depending therefrom, respectively, will remain for consideration.

Applicant's representative was unable to contact the Examiner to arrange a personal interview before expiration of the current period for response. Applicant herein requests a personal interview in accordance with MPEP § 713.01 to discuss the merits of the present application and to consider the effects of the present amendment thereon. Applicant's representative will contact the Examiner in the near future to arrange a convenient date for the interview.

In the Final Office Action the Examiner rejected Claims 1 and 4 under 35 U.S.C. § 102(b) as being anticipated by Yen Tseng (US 5,049,127). Claims 5 and 6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Yen Tseng. Claims 2 and 3 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Yen Tseng in view of Sneider (US 4,254,769).

Applicant has amended independent Claim 1 by including the subject matter previously recited in cancelled dependent Claims 4 and 6. Applicant has further amended Claim 1 by the use of closed claim language "consisting of" to more clearly define over the

applied references. Applicant has added new Claims 7-10, which include all of the limitations recited in amended independent Claim 1 in combination with a Christmas tree stand having a water receptacle. Applicant will advance arguments hereinbelow to illustrate the manner in which the presently claimed invention is patentably distinguishable from the cited and applied prior art. Reconsideration of the present application is respectfully requested.

The patent to Yen Tseng discloses an infant feeding apparatus. The Yen Tseng apparatus is similar to the watering system recited in Applicant's amended Claim 1. However, as noted above Applicant's amended Claim 1 is now written in "closed claim" form, and the patent to Yen Tseng does not properly read on the amended Claim. In this regard, the patent to Yen Tseng teaches features in addition to those recited in Applicant's claim. In particular, Yen Tseng shows abutment flange 14, nipple 16, tube loop 15 and support collars 25, 25a. Thus, with regard to amended independent Claim 1 and dependent Claims 2, 3 and 5, the rejection of these claims under 35 U.S.C. § 102(b) as being anticipated by Yen Tseng is improper and should be withdrawn.

With regard Applicant's new independent Claim 7, the Yen Tseng patent does not show a Christmas tree stand including means for supporting a Christmas tree and a water receptacle. Since each and every feature recited in Claim 10 is not taught, either expressly

or inherently, by the patent to Yen Tseng a rejection of Claims 10-17 under 35 U.S.C. § 102(b) as being anticipated by Yen Tseng would be improper.

The patent to Sneider discloses a collapsible container, which pertains generally to the surgical art. The Sneider patent, relied upon by the Examiner in rejecting dependent claims, and the references made of record but not applied against any of the Claims have also been carefully reviewed, however, Applicant finds nothing therein which would overcome or supply that which is lacking in the basic applied prior art reference to Yen Tseng noted above.

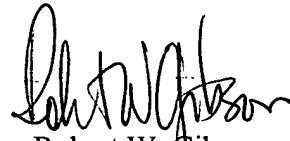
Applicant respectfully submits that the proposed amendments made herein properly respond to the outstanding Final Rejection and represent a *bona fide* effort to satisfactorily conclude the prosecution of this application. Care has been exercised to insure that no new matter has been introduced and that no new issues have been raised that would require further consideration or search. It is felt that no inordinate amount of time will be required on the part of the Examiner to review and consider this amendment. Applicant respectfully requests entry and favorable consideration of the proposed amendment. In the event that the application is not allowed, it is requested that this amendment be entered for purposes of appeal.

Application No.: 10/800,925
Art Unit: 3643

Attorney Docket No.: 23612.00
Confirmation No.: 9571

For the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,



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RWG/dht

Attachments: Petition for a One-Month Extension of Time
Check for \$60.00